

That is the kind of person I want in charge of this agency, I say to my friend from Massachusetts.

Mr. KENNEDY. Mr. President, I thank the Senator. If I could have recognition myself.

The ACTING PRESIDENT pro tempore. The Senator is recognized for 2 minutes and 30 seconds.

Mr. KENNEDY. Mr. President, I want to thank the Senator from Washington again. We have worked very closely together. We have worked with the administration. We have worked with our colleagues and friends, Senator ROCKEFELLER and Senator BYRD. We have worked together with Governor Manchin and other Governors. We have worked with the workers, the mine workers, the families. We have worked very closely together. This isn't in any sense a partisan issue. We have come together. There wasn't a dissenting vote here in the U.S. Senate in passing this legislation. There were a few votes in the House that wanted to have even stronger legislation. So we are basically all together and we are asking ourselves, given the fact we are all together and given the fact that we have this extraordinary challenge and problem that is affecting these workers, are they not entitled to someone who is going to be an effective leader in terms of providing safety.

I commend the Senator from Washington for making a strong case. We want to try to have a common position with our colleagues and friends within the administration. But this person—if we are going to I think meet our responsibility to those miners, we have to do better.

I thank my friend from Washington for her excellent presentation. I thank her for her conclusions.

We are facing a major challenge in this Nation about safety in our mines. We have seen the expansion of these mines as our energy situation has become more acute, and now is the time to have real implementation. Now is the time to fulfill our commitment to these families and to these workers. Now is the time to honor the memory of those who have gone into the mines and who have lost their lives. Now is the time to help those whose primary desire is honoring the members of their families by passing an effective bill and have it implemented effectively. Now is the time to do that. If we are going to do that, this is not the individual who is equipped to be able to do it. He is a fine gentleman, and I admire the fact he and his family have been miners. But you have to look at the record: Whether he has been running the mines and overseeing the mines effectively. In testifying, by nature of disposition, he is not the man to implement this, and we should reject his nomination.

The ACTING PRESIDENT pro tempore. The minority time has expired.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2007

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 2766 which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2766) to authorize appropriations for fiscal year 2007 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

Pending:

Warner (for Frist/Reid) amendment No. 4208, to express the sense of Congress that the United States Armed Forces, the intelligence community, and other agencies, as well as the coalition partners of the United States and the Iraqi Security Forces should be commended for their actions that resulted in the death of Abu Musab al-Zarqawi, the leader of the al-Qaida in Iraq terrorist organization and the most wanted terrorist in Iraq.

The ACTING PRESIDENT pro tempore. Under the previous order, the time until 12:15 p.m. shall be equally divided between the Senator from Virginia, Mr. WARNER, and the Senator from Michigan, Mr. LEVIN, or their designees.

Mrs. MURRAY. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEVIN. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SUNUNU). Without objection, it is so ordered.

Mr. LEVIN. Pursuant to the unanimous consent agreement which we adopted last night, it is my recollection that on the Democratic side we were going to be offering an amendment immediately following the pending Warner amendment.

I stand corrected. Apparently there was an understanding on this, between myself and Senator WARNER, which was not incorporated.

The PRESIDING OFFICER. An understanding but not a consent agreement.

Mr. LEVIN. I thank the Presiding Officer. Pursuant to that understanding, then, I ask unanimous consent that the pending Warner amendment be temporarily laid aside so I can offer an amendment on behalf of Senator LAUTENBERG.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator is recognized.

AMENDMENT NO. 4205

Mr. LEVIN. Mr. President, I call up amendment No. 4205, an amendment on

behalf of Senator LAUTENBERG, and ask for its immediate consideration following the disposition of the Warner bipartisan amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan (Mr. LEVIN) for Mr. LAUTENBERG, proposes an amendment numbered 4205.

Mr. LEVIN. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide a temporary prohibition on an increase in copayments required under the retail pharmacy system of the pharmacy benefits program of the Department of Defense)

At the end of subtitle A of title VII, add the following:

SEC. 707. TEMPORARY PROHIBITION ON INCREASE IN COPAYMENTS UNDER RETAIL PHARMACY SYSTEM OF PHARMACY BENEFITS PROGRAM.

Subsection (a)(6) of section 1074g of title 10, United States Code, as amended by section 702(b) of this Act, is further amended by adding at the end the following new subparagraph:

“(D) During the period beginning on April 1, 2006, and ending on December 31, 2007, the cost sharing requirements established under this paragraph for pharmaceutical agents available through retail pharmacies covered by paragraph (2)(E)(ii) may not exceed amounts as follows:

“(i) In the case of generic agents, \$3.

“(ii) In the case of formulary agents, \$9.

“(iii) In the case of nonformulary agents, \$22.”.

Mr. LEVIN. Mr. President, the President's budget proposes that the copays for prescriptions under the TRICARE Prescription Benefit Program be increased for our troops and their families and for retirees, and that the increase in the copays be, on the generic prescriptions, from \$3 to \$5; on brand-name prescriptions from \$9 to \$15. The amendment that Senator LAUTENBERG is offering and that I very much support would freeze the current copays in place until December 31, 2007.

This is not the time, in the middle of a war, to be raising copays on our military personnel and their families. They should not have to worry about whether their families are going to be able to afford to buy prescription drugs. The copays that currently exist are not statutory, so the Department of Defense does not need legislative authority to increase them. They have their authority. The problem is that our bill is silent on this subject so they would be increasing the copay because there is no prohibition in our bill on their doing so.

About 43 percent of the prescriptions filled through the TRICARE pharmacy benefits program are filled in retail pharmacies. The increase which the administration proposes would significantly increase beneficiary cost shares for medical care. Of course, the fear is not only that it would be additional

money coming out of the pockets of our troops and their families, but also this increase would discourage beneficiaries from using their military health care benefit.

The Department of Defense has estimated that the copayments would create additional revenue of \$81 million in fiscal year 2007. They also believe beneficiaries would not use their military pharmacy benefits to the same extent and that would mean that there would be savings to the Government of \$54 million and there would also be some savings if beneficiaries switch to mail order rather than retail pharmacies.

I don't think we ought to be assuming savings or counting on savings coming out of the pockets of our troops and their families while we are at war. I think it is a totally inappropriate time to do so, so I support the Lautenberg amendment. For a soldier in combat, under these circumstances, the circumstances that exist these days, to have a worry that a spouse or children would not get needed prescriptions because of the administration's desire to save some money is simply unconscionable.

The Senate bill directs a Comptroller General study of the DOD pharmacy benefit program to examine the cost and copayments structure of the program. We clearly ought to await that before we allow these copays to be increased as the administration budget proposes.

I see my dear friend and colleague, Senator WARNER, our chairman, on the floor now. We had an understanding that we would lay down this amendment this morning, that I would lay it down on behalf of Senator LAUTENBERG and speak briefly in support of it, and that after the disposition of the chairman's amendment, which is a bipartisan amendment, we would then come back to the Lautenberg amendment and at that point there would be additional debate—Senator LAUTENBERG would speak in support of his amendment and any others who wish to debate it would have an opportunity at that time.

We thought, given our understanding last night, we would lay this amendment down at this time. I have just done so.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, the distinguished ranking member, my good friend, the Senator from Michigan, is correct. We laid down an amendment on this side under the understanding this is the amendment that he selected to be laid down. I am just wondering if we can try to get some idea of the magnitude of the debate? I am not able to assess it on my side. I judge you are not. So we have some understanding of the time that is likely to be consumed in the debate—this is an important amendment—we will work on that together, in hopes we can get some time agreement and therefore we can then move on to other amendments.

I would simply ask unanimous consent that at the conclusion of the debate or the disposition of this amendment, that I be recognized to offer another amendment at that time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. I say to my distinguished colleague, it is my hope then we could alternate from side to side, so we could consider your amendment which would follow the third amendment, which I will put on.

Mr. LEVIN. I appreciate that. That is fine with us.

Mr. President, I suggest the absence of a quorum and ask the time be equally divided.

The PRESIDING OFFICER. Without objection, the time allotted to the quorum call will be equally divided.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. BROWNBACK are printed in today's RECORD under "Morning Business.")

Mr. BROWNBACK. I yield the floor.

The Senator from Virginia.

Mr. WARNER. Mr. President, I yield such time as the distinguished Senator from Oklahoma may require. He will be speaking with regard to a very important trip to Iraq. It bears directly on the pending measure; that is, a resolution on the success of our military in eliminating al-Zarqawi.

I yield to the Senator such time as he desires.

Mr. INHOFE. Mr. President, I thank the Senator from Virginia, the chairman of the Senate Armed Services Committee, and also for the great job he has done in bringing this Defense authorization bill to the floor.

Mr. President, on early Thursday morning, about 5:30, my radio alarm went off and I heard the three words—al-Zarqawi is dead. I think that affected me by just hearing that. I sat up in bed, and I thought it did work. It is happening. I told the distinguished chairman of the Senate Armed Services Committee that I have to go to Iraq.

The two most significant things that have happened in Iraq since bringing down Saddam Hussein happened on the same date, coincidentally. It is just remarkable: first of all, bringing down al-Zarqawi, the monster, and at the same time confirming the ministers in Iraq. We thought that would be a long, enduring battle. It sailed through, and it happened on the same day.

I can't tell you what a profound effect it had on the people of Iraq and on our troops over there. And now we find out about the surprise visit by the President. I figured out that our planes crossed on the way. I was coming back from Iraq and he was going to Iraq. If I had known that, I would have stayed.

But it was a pretty well-guarded secret. Of the two places I spent most of my time, this one was where al-Zarqawi was actually killed, just a couple of miles north of Balad Air Force Base and then in Baghdad.

It was such an incredible thing to be there after it happened and to talk to the different ministers. Defense Minister Jasim is the new Defense Minister, and he had a lot of things to say. In fact, he asked me to bring back this message for the American people. I am going to read this, because this came just a few hours ago from Defense Minister Jasim to me to take to the American people. He said:

Tell them their sacrifice is for a very noble cause, they have given freedom to 26 million people. I believe they are waging a just war for humanity. The terrorism must be stopped or it will spread all over the world, like a carbon copy of fascism and communism. This is the first world war of the 21st century. The American victims have borne the price of a freer world . . . We are very grateful . . . The war in Iraq is a just war and we have no option but victory. It is not a war that affects Iraq alone, but is truly a world war.

The terrorists are a sickness that must be eliminated . . . There is great transformation taking place in Iraq but the international media does not focus on positive things happening. They only focus on the negative, the bad things happening . . . what the terrorists are doing . . . they will publish anything bad . . . They try to say Americans are leading the way and we the Iraqis are in the back. This is the opposite. We are in the front and Americans are in the back.

We started with the multi-national forces in front and us at back. Then we worked side by side as very good partners. Now we are often in front and the multinational forces are in a supporting role.

Your presence here is very important. From the beginning to now, we have always had an American partner. I am sad when my American partner leaves me. But, when he leaves and returns to the U.S. I feel we have a voice going back to America. I fell in love with the American people.

That is Abdul Jasim, who is the newly confirmed Minister of Defense. He said so many other things when we were there that I would like to share, but it is very difficult to do that because he was so emotional at the time.

Well, this happened to be my 11th trip over to the Iraq AOR, and I have been watching, as the months have gone by—every other month or so being over there—and seeing the differences, seeing the changes that are taking place.

Just to give you an example, one of the tests we use to determine how strong the Iraqi people are supporting us is the number of qualified tips that come in. The way they come in is where someone says, for example: There is a safe house over here. We suspect something. These are Iraqi people saying where the terrorists are. And those numbers of tips have increased tenfold in the last 12 months. I can remember when there were only 30 or 40 tips a month. There are now 5,000 tips a month, and they are qualified tips. Some of these tips led to not just bringing down al-Zarqawi but also

some 17 others on the same day. So these things are going on. These things are happening.

As to the quality of the Iraqi security forces, I think Minister of Defense Jasim is right. He sees that our media is not accurately reporting what is going on over there. How many people in America know that as of the current time, 75 percent of the special operations by Iraqis are actually led by Iraqis, not by Americans? We are leading 25 percent. I remember when it was zero percent. Now, they are leading 75 percent. And 62 of the 112 battalions are at level 2 or level 1. That means they are capable of going out and fighting. That is half of them.

One of the statistics we got from Dr. Rubaie, who is the National Security Adviser—a real sharp guy and one who really has his hand on this—says 66 percent of the hospital beds are occupied by Americans and 34 percent by Iraqis. However, 66 percent of the surgeries are on Iraqis and 34 percent are on Americans. That kind of tells you what is happening over there and the change that is taking place. They are the ones who are doing it.

While we were over in Balad, we had occasion to learn there were several attacks on Iraqis. Some 50 Iraqis were killed last night, and they were killed by the terrorists. Here is the important thing. Zarqawi was not an Iraqi; he was Jordanian. Osama bin Laden is not an Iraqi; he is Saudi. Now, this new guy, al-Muhajir, we don't know about him. All we know is he is not an Iraqi. In other words, this is a war being waged by people from outside of Iraq on the Iraqis, and the Iraqi people are very sensitive to it. They know it.

It is interesting, one of the things the Minister of Defense said is that a lot of things are American issues, they are not really issues over there. For example, all we talk about in the media here is, well, we have the Shiites and the Sunnis, and they do not like each other. And he said that is not true at all. He said: We are Iraqis first, and then we are Sunnis or Shiites or Kurds second. To demonstrate that, there is a structure over there in Baghdad which is comparable to our Tomb of the Unknown Soldier. We stopped there. They had an honor guard there. The honor guard had nine people. They had one leader and eight others. When I asked him the question, through a translator: What about the problem that exists between the Shias and the Sunnis, he said: No, that is not true at all. He said: I am a Shia. My wife is Sunni. And I have been working on the honor guard with these people for several days here at our Unknown Soldier event, and I don't know who they are. I can't tell you who one of the eight is in terms of being a Sunni or a Shia.

So those are American problems. Those are not things resonating over there. And the quality of what they have done in terms of being quality soldiers is something the American people are not aware of. I had occasion to be

up in Fallujah back when the last election took place, and I was there when the Iraqi security forces actually were doing their thing, voting. They were taking their lives in their own hands by doing it because this is Fallujah, one of the most dangerous areas over there.

They came back very proud. No one was killed while they were trying to do it. They came back and said: We are participating in an election. That was during the last election. Now everyone is confirmed. The government is in place. They know what they are doing. And the most recent thing, which you may not have heard of because it just happened, is that Dr. Rubaie, the National Security Adviser for the Iraqis, said he believes that in a matter of a very short period of time—by the end of the year—he will ask our troops to leave, except for 100,000. In other words, we are slowly bringing it down.

We have heard in the field a lot of things you do not hear when there are hearings here in Washington, DC. If you go over there and you talk to the people on the ground, talk to the commanders on the ground, they have said for a long period of time that when we can get to the point where we have 10 Iraqi divisions of trained and qualified and equipped Iraqi security forces—10 divisions—then they will be able to take care of their own security. Well, the number that equates to 10 divisions would equal 325,000 trained and equipped Iraqi troops. Well, we are right now, today, at 264,000 trained and equipped Iraqis.

Now, some of the adversaries over here say they are not really trained to do a good job, they are not really good soldiers. Let me tell you, they are. All you have to do is talk to our soldiers who train them. Now they train themselves.

Last week, I was over in Afghanistan, and they are doing a good job of training their own troops over there. And that model has worked very well in Iraq. So we are rapidly getting to that point. Will we be out altogether? No, we will not be out altogether, but they will be providing their own security. We still have troops in Kosovo and Bosnia and Sinai and other places but not providing the security. They will be providing their own security. We are getting so close to that point. What has happened in just the last few days is very significant.

So as to al-Zarqawi, there is no one who has been a more brutal terrorist than he has been. He was the No. 1 terrorist in the world, and he is down now. Al-Zarqawi was the one responsible for the assassination of our U.S. diplomat, Lawrence Foley, in 2002. We all remember the horrific things we saw: the beheading of Nicholas Berg in 2004—that was al-Zarqawi—the 2005 bombing of three hotels in Jordan, the countless bombings and terrorist attacks against U.S. forces and Iraqi civilians. He was trying to create a sectarian civil war in Iraq by murdering Shiites and acting

as al-Qaida's commander in Iraq. Osama bin Laden called him the "Prince." I think most people considered him, if anything, to have been even worse than Osama bin Laden. So that was a great change. That was a great victory for the coalition forces, but, more importantly, it was a victory for the Iraqi people.

So with these things happening—and you look at the good side that you do not get sometimes in the media—there are 18 provinces in Iraq, and 15 of them are relatively secure. There are hardly any incidents taking place there. Most of the problems are in just three of them. And keep in mind, these are not Iraqi terrorists; these are outsiders who are coming in. They are having a harder and harder time recruiting people to carry out their terrorist activities. We have found that recently they are actually changing their homicide vests for suicide vests so they can put them on individuals and force Iraqis to go and perform certain acts. And if they do not do it, they can, remotely, detonate and blow that Iraqi up.

So things like that are happening right now. At the same time, good things are happening with the administration. The government is in place. I cannot tell you how impressed I was personally with Dr. Rubaie. I have known him for a long period of time. And I would say that the Defense Minister, Abdul Jasim, has already acknowledged, from the quotes I have given, that he is one of our very best friends. He is the one who said al-Zarqawi was suffering from the same disease as Hitler and Stalin, and he is one who is going to finish the job that we helped them with in the beginning.

I would say this is a time when good things are happening, and we feel very good about the progress the Iraqi security forces are making, very good about the constitutional government that is in place, very good about the new Ministers who have been confirmed now. And we are light-years ahead of where we were only 6 months ago.

So this, what I have characterized as probably America being in the most threatened position we have been in in our history, is now showing that we are at the core of the terrorist activities, which is in Iraq. We are now winning. The Iraqi people are winning. So I feel very good about that.

Let me say to Senator WARNER, the chairman of our committee, I am very proud of the bill we have put together. I have some amendments, and I will want to be recognized at the appropriate time to bring them up.

I ask the Senator, do you have other people coming down wanting time right now?

Mr. WARNER. Mr. President, at the present time the bill is being amended by the amendment which you just addressed, and there is a pending amendment offered by the minority. That is the next order of business. This afternoon, I think there would be opportunity for additional amendments.

Mr. INHOFE. That would be good. I thought maybe I could describe what amendment would be coming and why.

Mr. WARNER. If the Senator so desires.

But, Mr. President, I first inquire as to the allocation of time on the pending measure.

The PRESIDING OFFICER. At this time, the majority controls an additional 11 minutes, the minority controls 23 minutes.

Mr. INHOFE. Mr. President, I yield the floor.

Mr. WARNER. If the Senator would like to take a minute or two, I would be happy to have you alert the Senate as to some of the matters you will be bringing up.

Mr. INHOFE. No. I say to the distinguished chairman of the Armed Services Committee, this amendment is very significant, and I will have ample opportunity to explain it. Hopefully, we can do that this afternoon.

With that, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The time will be charged equally.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I ask unanimous consent that Senator SESSIONS be added as a cosponsor of amendment No. 4208.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, to return to the pending amendment offered by myself on behalf of the joint leadership of the Senate, this bipartisan amendment commends basically the U.S. Armed Forces, the intelligence community, and other agencies, along with coalition partners for the actions taken on June 7, 2006, that resulted in the death of Zarqawi, the leader of al-Qaida in Iraq. The military operation that resulted in the death of Zarqawi was truly an extraordinarily professional accomplishment of the combined U.S. and coalition forces and the infrastructure of intelligence, both civilian and military, that supported the operation. It displayed the precision, perseverance, and professionalism of our Armed Forces, supported by a sophisticated and superb intelligence apparatus that included U.S., Iraqi, and coalition intelligence organizations.

Behind the details that were made public so far, I assure all that there were months of coordinated hard work by analysts, human intelligence operatives, special operations forces, and military planners which were in

place at the time various pieces of information with a precise direction to the whereabouts of Zarqawi came into the knowledge of the intelligence operators.

The death of Zarqawi is certainly a significant blow to the terrorist network in Iraq, Osama bin Laden's international network, and the al-Qaida organization wherever they lurk in the world today in the shadows of death and destruction to the freedom of others. At Camp David yesterday the President was very careful to, with a sense of deep humility, commend the men and women of the Armed Forces and others who performed this mission, but he put the results of the mission in the context of the realities of the situation in Iraq. The press today reports from Camp David the following by the President:

Zarqawi is dead, but the difficult and necessary mission in Iraq continues. We can expect the terrorists and insurgents to carry on without him. We can expect sectarian violence to continue. Yet the ideology of terror has lost one of its most visible and aggressive leaders.

I will have further comments today with regard to that important conference in Camp David. Zarqawi was the most prominent insurgent in Iraq and the most active of any of Bin Laden's affiliates around the globe. While Bin Laden hides in mountain caves capable of making occasional audio tapes, Zarqawi was working to trigger a civil war, disrupt the newly unified democratic process of the new unity Government in Iraq, and then use Iraq as a base to launch attacks throughout the region. There is proof of that intent by Zarqawi. This amendment proudly salutes the brave and professional work of our military forces as well as the formidable efforts of our military, civilian, and allied intelligence operations for our efforts to end this brutal reign of terror.

The operation that resulted in the death of Zarqawi was not an isolated act. It triggered 56 more raids against targets connected with Zarqawi's organization in the 48 hours after his death as U.S., coalition, and Iraqi forces capitalized on this mission by taking action to disrupt other parts of the al-Qaida network. This amendment also commends our coalition partners in Iraq's new government of national unity for their invaluable assistance in the operation and their extraordinary efforts to secure a free and prosperous Iraq. The amendment closes by most appropriately commending our civilian leadership, from the Commander in Chief on down, and military leadership for their continuing efforts to eliminate the leadership of al-Qaida in Iraq and elsewhere. In all, this was a very successful joint and combined military operation. This mission was planned and executed by talented and courageous Americans, Iraqis, and coalition partners.

They all had one purpose—to eventually make Iraq safe and secure.

The operation that resulted in the death of Zarqawi may have eclipsed a very significant political development, the appointment of Ministers of Defense and the Interior, thereby ending weeks of political debate and completing the formation of Iraq's first permanent unity government. The death of Zarqawi and the appointment of these two Ministers are two very significant events in our unrelenting effort, with the coalition forces, toward a free and prosperous Iraq. While Iraq's insurgency and its divisions along religious lines will not easily recede, the death of Zarqawi and the complete formation of Iraq's government of national unity are reasons for renewed confidence that 2006 is a period of transition in Iraq and that our objectives are achievable.

I point that out because a year ago when we considered this bill, I, together with Senator LEVIN, put in an amendment which outlined the progress that had to be made in 2006. These are chapters toward achieving the goal we stated in that amendment which was part of our bill last year.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BURR). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I see one of our distinguished colleagues seeking recognition for an important set of comments.

The PRESIDING OFFICER. The Senator from Wisconsin.

(The remarks of Mr. KOHL are printed in today's RECORD under "Morning Business.")

Mr. WARNER. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Without objection, the time will be divided equally.

The bill clerk proceeded to call the roll.

Mr. LEVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Mr. President, I join my colleagues in first thanking the men and women of our military services who were responsible for the myriad of actions that were taken years ago that led to the ultimate elimination of such a vicious terrorist as Zarqawi. We also thank the men and women of our military services who are serving multiple tours of duty in arduous and dangerous locations with great personal sacrifice and great disruption in their lives and those of their family members.

The killing of Zarqawi is very welcome news. It is not the panacea for addressing the extreme levels of violence in Iraq or for solving the large

number of vexing issues—and the President has acknowledged as much—but it is an important step and one that will reduce the influence of al-Qaida in Iraq. He was responsible for a number of spectacular terrorist attacks that produced a large number of casualties and grizzly murders of kidnap victims. Zarqawi, while not the dominant part of the insurgency but a part of it, needed to be attacked and needed to be addressed. The insurgency, however, primarily is made up of disaffected Iraqi Sunnis. Zarqawi played a role in stirring up ethnic conflict between the Sunnis and the Shites. Much of the violence relating to that conflict is traced to the reaction of Shiite militias to the Sunni insurgency and to, of course, their reaction to the Shiite militias. Our security forces need to confront those militias and the other armed groups.

I ask unanimous consent that I be allowed to proceed for 1 additional minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Mr. President, there needs to be a political solution in addition to the military force which is present. Indeed, probably a more important event than the killing of Zarqawi was the selection by the Prime Minister and the ratification by the Iraqi Council of Representatives of the key ministries, Defense and Interior, and the National Security Adviser. Those vacancies lasted too long. Their filling, hopefully with people who have the support of all the Iraqi people who want Iraq to become a nation, is even a more important step than the killing of Zarqawi, as important as that step is.

As we all support—hopefully unanimously—this bipartisan amendment which is before us, we also need to recognize that there is critical work that remains to be done, and while this is a step toward, hopefully, a direction of Iraqi nationhood, most of the steps remain to be taken.

While Senator DURBIN is on the floor, I ask unanimous consent that immediately after the disposition of the next amendment of Senator WARNER, Senator DURBIN then be recognized, as we are alternating amendments, by my understanding.

The PRESIDING OFFICER. Is there objection?

Mr. WARNER. Mr. President, I concur in that recommendation, and it is my hope that I can be a cosponsor on this side of the aisle because the amendment is very important.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 4208

Mr. LEVIN. The pending amendment, Mr. President, as I understand it, is the amendment of Senator WARNER on behalf of Senator FRIST, Senator REID, and myself.

Mr. WARNER. That is correct.

Mr. BYRD. Mr. President, the Senate will vote today to commend the U.S.

Armed Forces for their efforts in Iraq. I will support this amendment, as I have supported other amendments and resolutions to commend our military personnel serving overseas for their service and commitment. I oppose the policy that sent our troops to Iraq, but I stand by our servicemen and service-women 100 percent.

However, I am concerned that the amendment may have unintended consequences. Previous statements that boast of substantial victories in Iraq have been proven wrong at the cost of American lives. Declaring victory because of the elimination of Abu Musab al-Zarqawi could be a costly mistake. I agree with the President's comment on June 9, 2006, in which he said, "I don't want the American people to think that a war is won with the death of one person."

Our troops are still facing daily attacks in Iraq. I thank them for their service, and I am particularly proud of the efforts of the West Virginia National Guard in Iraq, Afghanistan, and many other locations around the world. Instead of seeking a lofty sounding but largely meaningless resolution from the Congress, the President should instead be working to send Congress a plan to start bringing our troops home with the honor and the thanks they have earned from this grateful Nation.

The PRESIDING OFFICER. Under the previous order, the hour of 12:15 p.m. having arrived, the Senate will proceed to a vote on amendment No. 4208.

Mr. LEVIN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 4208.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. The following Senator was necessarily absent: The Senator from Nevada (Mr. ENSIGN).

Further, if present and voting, the Senator from Nevada (Mr. ENSIGN) would have voted "yea."

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. MENENDEZ) and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

I further announce that, if present and voting, the Senator from New Jersey (Mr. Menendez) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 168 Leg.]

YEAS—97

Akaka	Allen	Bennett
Alexander	Baucus	Biden
Allard	Bayh	Bingaman

Bond	Feinstein	Murkowski
Boxer	Frist	Murray
Brownback	Graham	Nelson (FL)
Bunning	Grassley	Nelson (NE)
Burns	Gregg	Obama
Burr	Hagel	Pryor
Byrd	Harkin	Reed
Cantwell	Hatch	Reid
Carper	Hutchison	Roberts
Chafee	Inhofe	Salazar
Chambliss	Inouye	Santorum
Clinton	Isakson	Sarbanes
Coburn	Jeffords	Schumer
Cochran	Johnson	Sessions
Coleman	Kennedy	Shelby
Collins	Kerry	Smith
Conrad	Kohl	Snowe
Cornyn	Kyl	Specter
Craig	Landrieu	Stabenow
Crapo	Lautenberg	Stevens
Dayton	Leahy	Sununu
DeMint	Levin	Talent
DeWine	Lieberman	Thomas
Dodd	Lincoln	Thune
Dole	Lott	Vitter
Domenici	Lugar	Voinovich
Dorgan	Martinez	Warner
Durbin	McCaIn	Wyden
Enzi	McConnell	
Feingold	Mikulski	

NOT VOTING—3

Ensign	Menendez	Rockefeller
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The amendment (No. 4208) was agreed to.

Mr. WARNER. I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, I am anxious to consult with the distinguished ranking member of the committee here, so, for the moment, I will just ask for a quorum call before I put in the unanimous consent request.

Mr. President, I withdraw that request.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 4211

Mr. WARNER. Mr. President, at this time I send to the desk an amendment. It has been agreed upon between the ranking member and that I would be recognized for the purpose of an amendment following the disposition of the Lautenberg amendment. So at this time I send an amendment to the desk and ask for its consideration following the disposition of the Lautenberg amendment.

The PRESIDING OFFICER. Without objection, the pending amendment will be set aside and the clerk will report.

The assistant legislative clerk read as follows:

The Senator from Virginia (Mr. WARNER) proposes and amendment numbered 4211.

Mr. WARNER. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To name the CVN-78 aircraft carrier the U.S.S. Gerald Ford)

At the end of subtitle B of title X, add the following:

SEC. 1013. NAMING OF CVN-78 AIRCRAFT CARRIER AS THE U.S.S. GERALD FORD.

(a) FINDINGS.—Congress makes the following findings:

(1) Gerald R. Ford has served his country with honor and distinction for the past 64 years, and continues to serve.

(2) Gerald R. Ford joined the United States Naval Reserve in 1942 and served valiantly at sea on the U.S.S. Monterey (CVL-26) during World War II, taking part in major operations in the Pacific, including at Makin Island, Kwajalein, Truk, Saipan, and the Philippine Sea.

(3) The U.S.S. Monterey earned 10 battle stars, awarded for participation in battle, while Gerald R. Ford served on the vessel.

(4) Gerald R. Ford was first elected to the House of Representatives in 1948.

(5) In the course of 25 years of service in the House of Representatives, Gerald R. Ford distinguished himself by his exemplary record for character, decency, and trustworthiness.

(6) Throughout his service in Congress, Gerald R. Ford was an ardent proponent of strong national defense and international leadership by the United States.

(7) From 1965 to 1973, Gerald R. Ford served as minority leader of the House of Representatives, raising the standard for bipartisanship in his tireless fight for freedom, hope, and justice.

(8) In 1973, Gerald R. Ford was appointed by President Nixon to the office of Vice President of the United States with the overwhelming support of Congress.

(9) From 1974 to 1976, Gerald R. Ford served as the 38th President of the United States, taking office during one of the most challenging periods in the history of the United States and restoring the faith of the people of the United States in the office of the President through his steady leadership, courage, and ultimate integrity.

(10) President Gerald R. Ford helped restore the prestige of the United States in the world community by working to achieve peace in the Middle East, preserve détente with the Soviet Union, and set new limits on the spread of nuclear weapons.

(11) President Gerald R. Ford served as Commander in Chief of the Armed Forces of the United States with great dignity, supporting a strong Navy and a global military presence for the United States and honoring the men and women of the Armed Forces of the United States.

(12) Since leaving the office of President, Gerald R. Ford has been an international ambassador of American goodwill, a noted scholar and lecturer, a strong supporter of human rights, and a promoter of higher education.

(13) Gerald R. Ford was awarded the Medal of Freedom and the Congressional Gold Medal in 1999 in recognition of his contribution to the Nation.

(14) As President, Gerald R. Ford bore the weight of a constitutional crisis and guided the Nation on a path of healing and restored hope, earning forever the enduring respect and gratitude of the Nation.

(b) NAMING OF CVN-78 AIRCRAFT CARRIER.—CVN-78, a nuclear powered aircraft carrier of the Navy, shall be named the U.S.S. Gerald Ford.

Mr. WARNER. Mr. President, I ask unanimous consent the scheduled recess today be extended to 3:30 p.m., further that the cloture vote on the nomination of Richard Stickler be vitiated and at 3:30 p.m. the Senate proceed to the immediate consideration of the conference report to accompany H.R. 4939, the emergency supplemental appropriations bill.

Mr. BYRD. Reserving the right to object.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. I wonder if my friend from Massachusetts, who was engaged

when that request was made, has anything in response?

Mr. KENNEDY. Would the Senator be kind enough to vitiate the consent? I had talked to the leader and the concern—reserving the right to object—was if we vitiated this, the administration would go ahead and have a recess appointment. We understand we have the signing of the Mine Safety Act on Thursday. This was a real coming together, a bipartisan effort. The President is supporting it. It passed overwhelmingly in the House. It is a very important bill and will make a big difference. It has the support of the families.

We were at least looking for some opportunity, if it was going to be the position of the administration to go ahead and recess-appoint it—we wanted at least some assurance that we would have a chance to have the cloture vote prior to the time of the appointment. That is basically what we were looking at.

We have no objection to following the leaders, to vitiate this, but there is concern that we have vitiating this particular amendment. We understand even if we do or do not get cloture, the President could still have a recess appointment. But nonetheless, for those who feel very strongly about this nominee, at least at this point we are able to get a vote in one way or the other prior to the time of a recess appointment. It was that particular position that we did not want to give up.

Just so the Senator has some understanding about what we are looking for, we want to work with the leadership. As the Senator knows, there is a constitutional issue whether you can appoint during the short recess, which would be the Fourth of July recess. More often than not it is done in the August recess, which is well down the road, and we have the pending business which is of great importance to this.

We are glad to work with the leadership. If we could have the assurances from the Senator from Virginia that he understands our position and will make a good-faith effort to at least give us the opportunity—maybe the leadership doesn't want to give us that opportunity. That is what our position is, those who feel strongly about the Stickler nomination.

Mr. WARNER. Mr. President, I say to my good friend from Massachusetts and my distinguished colleague from West Virginia, I am not at liberty—I have no instructions from my leadership beyond propounding this. It was my understanding it was cleared on both sides. I assumed that when it was handed to me, and therefore I proceeded to request by unanimous consent these actions.

I think Members are anxious to go to a series of events now, namely the party caucuses, followed by the traditional photograph, and then there is a briefing at 2:30 by the Secretaries of State and Defense, which I believe is very important for Senators to have the opportunity to attend.

That is the purpose of this unanimous consent request.

Mr. KENNEDY. Would the Senator just defer and offer this maybe when we come right back in? Let's just work this out.

Mr. WARNER. Mr. President, the Senator has the right to object. That would do it. I can certainly say that I will relay the Senator's concerns to my leader. If that would suffice for the moment to allow this unanimous consent agreement to go forward? Would that be sufficient?

Mr. KENNEDY. Yes. I think we will be able to work this out. We want to. We have every desire to try to work it out. We would just like some assurances from the leader that our position will—

Mr. WARNER. I have just been given a note indicating the leader will be fully briefed about the concerns of the Senator from Massachusetts.

Mr. BYRD. Will the Senator yield, whoever has the floor?

Mr. WARNER. Yes, I believe, I say to the distinguished former leader, I have the floor, but I yield the floor to him.

Mr. BYRD. I simply thank the very distinguished Senator from Virginia for his response to the request and his willingness to withhold his unanimous consent request for the time being. I thank him.

Mr. WARNER. I propound the unanimous consent request.

The PRESIDING OFFICER. Is there an objection to the unanimous consent request?

Mr. BYRD. Reserving the right to object.

The PRESIDING OFFICER. The Senator from West Virginia reserves the right to object. Does he in fact object?

Mr. WARNER. You have my full attention.

Mr. BYRD. I am only reserving the right to object. I hope we would have just a little while to talk about this. I am very much opposed to this. But I read the tea leaves very well. If the Senator would just desist for the time being, please?

Mr. WARNER. If it is the desire of the Senator from West Virginia to object, I respect that right. The matter will now be put aside, if that is your desire.

Mr. BYRD. I thank the Senator.

The PRESIDING OFFICER. The minority leader.

Mr. REID. I am sorry I was not on the floor. I thought we had this all worked out. It is my understanding there are people who want to go forward with the cloture vote, is that right? Because either we do the cloture vote at 3:30 or we take it off. The majority leader has told me that we take it off and he has the ability to reset it at any time he chooses or we have the vote at 3:30. It is as simple as that.

Mr. KENNEDY. If the Senator will yield, what we were looking for is that—we are glad to take it off. But we were hopeful, if it was going to be the desire to go ahead with a recess appointment, whenever that was, we at

least have an opportunity to have this vote sometime in the future. If they are not going to have the recess appointment, this disappears. But I hope we would have that opportunity at the present time. I do not think that is an unreasonable request, if it is the desire of the administration to move ahead with this nominee with a recess appointment, that at least we come back to where we are now and would have some opportunity to express ourselves. We would be giving that up if we just vitiate the whole thing. He could say we are going to go ahead and he is going to appoint him as a recess appointment during the July break or sometime in the August break. That is the dilemma that we are in.

Mr. REID. I have spoken to the majority leader. I hate to be speaking for him here, but he is not here. The majority leader said he has not spoken to anybody about a recess appointment. He doesn't know if they have any intention of doing that. He doesn't know. But he doesn't want to be constrained, so it would be my suggestion we just go ahead at 3:30, then, because doing anything other than that I think puts the majority leader in a real bind. I am willing to put him in a bind but not for anything that is my cause.

I suggest we withdraw the unanimous consent request and go ahead with a vote at 3:30, if people are demanding there be some conditions on taking away the vote. The unanimous consent request, as I understand it, is that the vote would be vitiated and the leader would reset that vote at any time he chose fit. Certainly the distinguished Senators from West Virginia and Massachusetts can talk to the majority leader, if they want to do that, following the vote being vitiated.

But unless there is an agreement on this unanimous consent request, basically that the vote scheduled for 3:30 today be vitiated and we go to the conference report on the emergency supplemental—if that is not the agreement, then I assume we would go to the vote at 3:30 and go to the supplemental at some later time.

Mr. WARNER. Mr. President, it seems to me that we could have the certainty, then, if the vote is to be held, that we could go immediately following the vote to the supplemental.

Mr. REID. That was discussed. I am not ready to do that.

Mr. WARNER. Then I think for the moment that we are confronted with the parliamentary situation whereby there is objection.

Mr. REID. I ask the Chair, what time is the vote set for?

The PRESIDING OFFICER. The vote is set for 2:30, with an hour of debate.

Mr. REID. The reason that is very awkward is because we have Secretary Rumsfeld and Secretary Rice coming here, and to have a knock-down, drag-out debate on this at this time doesn't seem to be very good for the body because it is reported that the President is on the way back from Iraq. I think

we should go ahead with that schedule, which was to vitiate this vote, but we got wound up somehow in recess appointments the majority leader and I have never talked about. As I said to the floor and to the distinguished Senator from Massachusetts, he has not spoken to anybody about a recess appointment.

I ask the Senator from Massachusetts and the Senator from West Virginia: Do we go ahead with the schedule as we have it laid out, that at 2:30 p.m. we start the vote on Stickler, and those who want to be here for the debate on Stickler could do that, and those who want to go to the Rice-Rumsfeld hearing can do that?

Mr. KENNEDY. That is satisfactory.

Mr. REID. There is no unanimous consent request that we come here at 2:30 to start the debate on Stickler, and there will be a vote at 3:30.

The PRESIDING OFFICER. Does the Senator from Virginia withdraw his unanimous consent request?

Mr. WARNER. No. Leave the unanimous consent request there. I understand there is objection.

The PRESIDING OFFICER. Is there objection to the unanimous consent request?

Mr. KENNEDY. I object.

The PRESIDING OFFICER. The Senator from Massachusetts objects.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate will stand in recess until 2:30 p.m.

Thereupon, the Senate, at 1:03 p.m., recessed until 2:32 p.m., and reassembled when called to order by the Presiding Officer (Mr. VOINOVICH).

The PRESIDING OFFICER. The majority leader is recognized.

ORDER OF PROCEDURE

Mr. FRIST. Mr. President, I ask unanimous consent that the scheduled recess today be extended until 3:30 p.m.; further that the cloture vote on the nomination of Richard Stickler be vitiated and that at 3:30 p.m. the Senate proceed to the immediate consideration of the conference report to accompany H.R. 4939, the emergency supplemental appropriations bill.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. Mr. President, reserving the right to object, I thought we talked with the leader about a process and a procedure, of which the leader was agreeable, that we would have a chance—if there is going to be a recess appointment—that we would have an opportunity to go ahead and have a cloture vote prior to that time.

Mr. FRIST. Mr. President, the discussion among the Democratic leadership and Republican leadership was, indeed, that we vitiate the vote today and that at a time that is mutually agreed upon this vote will come back to this body.

Mr. KENNEDY. To this body prior to the recess appointment?

Mr. FRIST. Prior. That is the understanding. And the discussion was—I have had absolutely no conversations with the administration about a recess appointment—

Mr. KENNEDY. Right.

Mr. FRIST. But if there were to be such a recess appointment, that then this vote could come back, would come back at that time.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. I thank the leader. We are going to have a very important Thursday signing of the Mine Safety Act. It is a reflection of the good work of our chairman, Senator ENZI, and many others on our Human Resources Committee. It is very good legislation, passed by the House of Representatives, and to be signed by the President. It is going to be enormously important. We look forward to that and hopefully to its effective enforcement.

I thank the leader.

The PRESIDING OFFICER. If there is no objection, without objection, it is so ordered.

Mr. ENZI. Mr. President, I rise today to voice my support for the nomination of Richard M. Stickler to be the Assistant Secretary of Labor for Mine Safety and Health. Mr. Stickler's nomination was referred to the Committee on Health, Education, Labor, and Pensions. On March 8 of this year, the committee reported the nomination favorably out of the committee.

The Senate acted just 2 weeks ago on mine safety legislation which the House passed on Wednesday. It is anticipated that the President will sign this into law expeditiously. It is extremely important for the Mine Safety and Health Administration to have permanent leadership to implement this important mine safety law; therefore, I urge my colleagues to vote in favor of Mr. Stickler's nomination today.

Despite decades of improving safety in our Nation's mines, this year we witnessed a series of tragic accidents in the coal mines of West Virginia and Kentucky. Those tragedies, in part, led to a thorough review of our mine safety laws. The Senate Health, Education, Labor, and Pensions Committee, which I am privileged to chair, and the Subcommittee on Employment and Workplace Safety, chaired by Senator JOHN-ny ISAKSON, conducted extensive hearings and roundtables on the issues related to mine safety. We conducted an exhaustive review of the current Mine Safety and Health Act and met, at length, with representatives from the mining industry, labor, the professional safety community and State and Federal regulators, all in an effort to determine how we could act in a responsible and constructive way to improve workplace safety for our Nation's miners. The result of these collective efforts was the Mine Improvement and New Emergency Response Act. The MINER Act is the first comprehensive